

1  
2  
3  
4  
5  
6  
7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE EASTERN DISTRICT OF CALIFORNIA

9 UNITED STATES OF AMERICA,

10 Respondent,

No. CR S-89-0062 WBS GGH P

11 vs.

12 MICHAEL L. MONTALVO,

13 Movant.

ORDER

14 \_\_\_\_\_/  
15 Movant, a federal prisoner proceeding with counsel, has filed a motion to vacate,  
16 set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. The matter was referred to a  
17 United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order  
18 No. 262.

19 On March 23, 2007, the magistrate judge filed findings and recommendations  
20 herein which were served on all parties and which contained notice to all parties that any  
21 objections to the findings and recommendations were to be filed within twenty days. Movant has  
22 filed objections to the findings and recommendations.

23 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-  
24 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire  
25 file, the court finds the findings and recommendations to be supported by the record and by  
26 proper analysis.


Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed March 23, 2007, are adopted in full;

and

2. Montalvo's second § 2255 motion, brought in the guise of a Fed. R. Civ. P. 60(b) motion, is dismissed for lack of jurisdiction.

DATED: May 30, 2007



WILLIAM B. SHUBB  
UNITED STATES DISTRICT JUDGE

/mont0066.805